

JS 44 (Rev. 10/20)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

MELINDA LeSAGE and HERBERT J. LeSAGE, JR., w/h

(b) County of Residence of First Listed Plaintiff Chester  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Joseph Cullen, Jr., Stark & Stark, 777 Township Line Road, Ste. 120, Yardley, PA 19067, (267) 907-9600

**DEFENDANTS**

CITY CRUISES PHILADELPHIA, SPIRIT OF PHILADELPHIA and ENTERTAINMENT CRUISES, INC.

County of Residence of First Listed Defendant Philadelphia  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Timothy Rau, Marshall Dennehey, 2000 Market St., Ste. 2300, Philadelphia, PA 19103, (215) 575-2623

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                                   |   | PTF                        | DEF                                   |
|---|---------------------------------------|---------------------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1            | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4            |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3            | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395(f)) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S. Code Section 1332

Brief description of cause:  
Personal Injury premises liability

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$  
\$750,000

CHECK YES only if demanded in complaint:  
JURY DEMAND: ☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE  
06/30/2022

SIGNATURE OF ATTORNEY OF RECORD  
Timothy D. Rau

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE



UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

**DESIGNATION FORM**

*(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)*

Address of Plaintiff: 2 My Way-Lincoln University, Lincoln University, PA 19352  
 Address of Defendant: 455 N Cityfront Drive, Suite 2660, Chicago, IL 60611  
 Place of Accident, Incident or Transaction: 401 S. Columbus Blvd, Philadelphia, PA 19106

**RELATED CASE, IF ANY:**


Case Number: \_\_\_\_\_ Judge: \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when *Yes* is answered to any of the following questions:

- |  |                              |                             |
|--|------------------------------|-----------------------------|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?            | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?  | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 06/30/2022

  
Must sign here  
Attorney-at-Law / Pro Se Plaintiff

84707

Attorney I.D. # (if applicable)

**CIVIL: (Place a ✓ in one category only)**

**A. Federal Question Cases:**

**B. Diversity Jurisdiction Cases:**

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts  
☐ 2. FELA  
☐ 3. Jones Act-Personal Injury  
☐ 4. Antitrust  
☐ 5. Patent  
☐ 6. Labor-Management Relations  
☐ 7. Civil Rights  
☐ 8. Habeas Corpus  
☐ 9. Securities Act(s) Cases  
☐ 10. Social Security Review Cases  
☐ 11. All other Federal Question Cases  
 (Please specify): \_\_\_\_\_

- ☐ 1. Insurance Contract and Other Contracts  
☐ 2. Airplane Personal Injury  
☐ 3. Assault, Defamation  
☐ 4. Marine Personal Injury  
☐ 5. Motor Vehicle Personal Injury  
☒ 6. Other Personal Injury (Please specify): Negligence  
☐ 7. Products Liability  
☐ 8. Products Liability – Asbestos  
☐ 9. All other Diversity Cases  
 (Please specify): \_\_\_\_\_

**ARBITRATION CERTIFICATION**

*(The effect of this certification is to remove the case from eligibility for arbitration.)*

I, \_\_\_\_\_, counsel of record or pro se plaintiff, do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:  
☐ Relief other than monetary damages is sought.

DATE: \_\_\_\_\_ Sign here if applicable  
 Attorney-at-Law / Pro Se Plaintiff Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

---

MELINDA LeSAGE and  
HERBERT J. LeSAGE, JR., w/h

Plaintiffs

v.

CITY CRUISES PHILADELPHIA,  
SPIRIT OF PHILADELPHIA and  
ENTERTAINMENT CRUISES, INC.

Defendants

---

CIVIL ACTION

NO.

**TO: CLERK OF COURT OF THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**NOTICE OF REMOVAL**

Defendants, City Cruises Philadelphia, Spirit of Philadelphia and Entertainment Cruises, Inc. (hereinafter referred to as “Removing Defendants”), by and through their attorneys, Marshall Dennehey Warner Coleman & Goggin, hereby file this Notice of Removal of this case from the Court of Common Pleas of Philadelphia County, Pennsylvania to the United States District Court for the Eastern District of Pennsylvania on the basis of diversity jurisdiction, and in support thereof aver as follows:

1. Plaintiff commenced this action by filing a Complaint on May 13, 2022, in the Court of Common Pleas of Philadelphia County, Pennsylvania docketed as May 2022 Term, No. 01279. (A true and correct copy of the Complaint is attached hereto and marked as Exhibit "A").
2. The Complaint was served upon all defendants via personal service on June 2, 2022.



3. The Complaint states that Plaintiffs are adult individuals and residents of the Commonwealth of Pennsylvania, residing therein at 2 My Way-Lincoln University, Lincoln University, PA 19352. Therefore, upon information and belief, Plaintiffs are citizens of the Commonwealth of Pennsylvania.

4. Defendant City Cruises Philadelphia is a brand name of Hornblower Cruises and Events, LLC, which replaced Spirit Cruises, LLC via a name change in 2020. Hornblower Cruises and Events, LLC is domestic limited liability company organized pursuant to the laws of the state of Delaware. Its principal place of business is located at 455 N Cityfront Drive, Suite 2600, Chicago, IL 60611. (See Affidavit of Colleen La Ha, attached hereto and marked as Exhibit "B," ¶3).

5. Defendant Entertainment Cruises, Inc. is predecessor corporation of Hornblower Cruises and Events, Inc., which replaced Entertainment Cruises, Inc. via a name change in 2020. Hornblower Cruises and Events, Inc. is a domestic corporation organized pursuant to the laws of the state of Delaware. Its principal place of business is located at 455 N Cityfront Drive, Suite 2600, Chicago, IL 60611. (Ex. "B," ¶2).

6. Defendant Spirit of Philadelphia is a marine vessel owned by Hornblower Cruises and Events, LLC. (Ex. "B," ¶4).

7. Hornblower Cruises and Events, Inc. is the sole member of Hornblower Cruises and Events, LLC. (Ex. "B," ¶5).

8. Hornblower Cruises and Events, LLC and Hornblower Cruises and Events, Inc., are organized under Hornblower Group, Inc., which is a domestic corporation organized pursuant to the laws of the state of California. Its principal place of business is Pier 3, The Embarcadero, San Francisco, CA 94111. (Ex. "B," ¶6).

9. None of the Removing Defendants is incorporated or otherwise organized pursuant to the laws of Pennsylvania. Moreover, their principal places of business are not, and never were located in Pennsylvania.

10. Defendant City Cruises Philadelphia and its corporate entity, Hornblower Cruises and Events, Inc., are not residents of Pennsylvania.

11. Defendant Entertainment Cruises, Inc. and its successor, Hornblower Cruises, Inc., are not residents of Pennsylvania.

12. Defendant Spirit of Philadelphia is owned by Hornblower Cruises and Events, LLC and neither is a resident of Pennsylvania.

13. Based upon the allegations of Plaintiffs' Complaint, the amount in controversy in this action is in excess of Seventy-Five Thousand Dollars (\$75,000.00), exclusive of costs and interest, as Plaintiff has alleged damages in excess of \$50,000.00 in the Complaint.

14. As such, the above described civil action is one in which this Honorable Court has jurisdiction pursuant to the provisions of 28 U.S.C. § 1332 based upon the fact that there exists diversity of citizenship between the parties and the amount in controversy exceeds \$75,000.00.

15. Under these circumstances, the lawsuit could have been brought originally before this Court under 28 USC §1332 between the Plaintiff and Removing Defendants. Further, pursuant to 28 USC §1441 (b), the Defendant is not a citizen of Pennsylvania where the action was brought. The lawsuit is, therefore, properly removed to this Court pursuant to 28 USC §1441.

16. This Notice of Removal has been filed within thirty (30) days after receipt by Removing Defendants of the Complaint in accordance with 28 U.S.C. § 1446(b).



17. Written notice of the filing of this Notice of Removal has been given to the adverse party in accordance with 28 U.S.C. §1446(d), as noted in the attached Certificate of Service.

18. Promptly after filing in this Court and the assignment of a civil action number, a copy of the Notice of Removal will be filed with the Court of Common Pleas of Philadelphia County, Pennsylvania in accordance with 28 U.S.C. §1446(d).

19. Removing Defendant expressly reserves the right to raise all defenses and objections in this action after it is removed to this Honorable Court. No admission of fact, law, or liability is intended by this Notice of Removal, and all defenses, affirmative defenses and motions are hereby reserved to all defendant.

20. Copies of all process, pleadings and other Orders which have been received by Defendant in this action are filed herewith.

**WHEREFORE**, Defendants City Cruises Philadelphia, Spirit of Philadelphia and Entertainment Cruises, Inc. respectfully request that they may affect the removal of this action from the Court of Common Pleas of Philadelphia County, Pennsylvania to the United States District Court for the Eastern District of Pennsylvania.

**MARSHALL DENNEHEY WARNER  
COLEMAN & GOGGIN**

BY: *Timothy D. Rau*  
TIMOTHY D. RAU, ESQUIRE  
2000 Market Street, 23<sup>rd</sup> Floor  
Philadelphia, PA 19103  
(215) 575-2623  
Attorney for Defendants,  
City Cruises Philadelphia,  
Spirit of Philadelphia and  
Entertainment Cruises, Inc.

Dated: June 30, 2022

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MELINDA LeSAGE and  
HERBERT J. LeSAGE, JR., w/h

Plaintiffs

v.

CITY CRUISES PHILADELPHIA,  
SPIRIT OF PHILADELPHIA and  
ENTERTAINMENT CRUISES, INC.

Defendants

CIVIL ACTION

NO.

**CERTIFICATION**

I, Timothy D. Rau, Esquire, hereby certify that the facts set forth in the foregoing Notice of Removal are true and correct to the best of my knowledge, information and belief.

**MARSHALL DENNEHEY WARNER  
COLEMAN & GOGGIN**

BY: *Timothy D. Rau*

TIMOTHY D. RAU, ESQUIRE  
2000 Market Street, 23<sup>rd</sup> Floor  
Philadelphia, PA 19103  
(215) 575-2623  
Attorney for Defendants,  
City Cruises Philadelphia,  
Spirit of Philadelphia and  
Entertainment Cruises, Inc.

Dated: June 30, 2022





# ***EXHIBIT "A"***

**STARK & STARK, P.C.**

By: Joseph A. Cullen, Jr., Esq.

Attorney I.D. No. 82167

By: Dylan Cochran, Esq.

Attorney I.D. No 328823

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[jcullen@stark-stark.com](mailto:jcullen@stark-stark.com)

[dcochran@stark-stark.com](mailto:dcochran@stark-stark.com)



MELINDA LESAGE and HERBERT J.  
LESAGE, JR., w/h  
2 My Way-Lincoln University  
Lincoln University, PA, 19352

v.

CITY CRUISES PHILADELPHIA  
401 S Christopher Columbus Blvd,  
Philadelphia, PA, 19106

and

SPIRIT OF PHILADELPHIA  
401 S Christopher Columbus Blvd,  
Philadelphia, PA, 19106

And

ENTERTAINMENT CRUISES, INC.  
123 Chestnut St, Ste 402  
Philadelphia, PA, 19106

COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY

NO.

**JURY TRIAL DEMANDED**

**NOTICE**

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.



YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

PHILADELPHIA BAR ASSOCIATION  
LAWYER REFERRAL AND  
INFORMATION SERVICE  
One Reading Center  
Philadelphia, Pennsylvania 19107  
Telephone: (215) 238-1701

**AVISO PARA DEFENDER**

USTED HA SIDO DEMANDADO/A EN LA CORTE. Si usted desea defender contra la demanda puestas en las siguientes páginas, usted tienen que tomar acción dentro veinte (20) días después que esta Demanda y Aviso es servido, con entrando por escrito una apariencia personalmente o por un abogado y archivando por escrito con la Corte sus defensas o objeciones a las demandas puestas en esta contra usted. Usted es advertido que si falla de hacerlo el caso puede proceder sin usted y un jaxgamiento puede ser entrado contra usted por la Corte sin más aviso por cualquier dinero reclamado en la Dermanda o por cualquier otro reclamo o alivio solicitado por Demandante. Usted puede perder dinero o propiedad o otros derechos importante para usted.

USTED DEBE LLEVER ÉSTE PAPEL A SU ABOGADO ENSEGUIDA. SI USTED NO TIENE UN ABOGADO, VAYA O LLAME POR TELÉFONO LA OFICINA FLJADA AQUI ABAJO. ESTA OFICINA PUEDE PROVEERÉ CON INFORMACIÓN DE CÓMO CONSEGUIR UN ABOGADO.

SI USTED NO PUEDE PAGARLE A UN ABOGADO ÉSTA OFICINA PUEDE PROVEERÉ INFOMRACIÓN ACERCA AGENCIAS QUE PUEDAN OFRECER SERVICIOS LEGAL A PERSONAS ELIGIBLE AQ UN HONORARIO REDUCIDO O GRATIS.

ASOCIACION DE LICENCIADOS DE FILADELFIA  
SERVICIO DE REFERENCIA  
E INFORMACION LEGAL  
One Reading Center  
Filadelfia, Pennsylvania 19107  
Telefono: (215) 238-1701

**STARK & STARK, P.C.**

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By: Dylan Cochran, Esq.

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*Attorneys for Plaintiffs*

MELINDA LESAGE and HERBERT J.  
LESAGE, JR., w/h  
2 My Way-Lincoln University  
Lincoln University, PA, 19352

v.

CITY CRUISES PHILADELPHIA  
401 S Christopher Columbus Blvd,  
Philadelphia, PA, 19106

and

SPIRIT OF PHILADELPHIA  
401 S Christopher Columbus Blvd,  
Philadelphia, PA, 19106

And

ENTERTAINMENT CRUISES, INC.  
123 Chestnut St, Ste 402  
Philadelphia, PA, 19106

COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY

NO.

**JURY TRIAL DEMANDED**

**CIVIL ACTION COMPLAINT**

1. Plaintiffs Melinda LeSage and Herbert J. LeSage, Jr., wife and husband, are adult individuals and residents of the Commonwealth of Pennsylvania who reside together at 2 My Way- Lincoln University, Lincoln University, PA 19352.



2. Defendant, City Cruises Philadelphia, is a corporation or similar entity, with a principal place of business at 401 S Christopher Columbus Blvd, Philadelphia, PA 19106.

3. Defendant, Spirit of Philadelphia, is a corporation or similar entity, with a principal place of business at 401 S Christopher Columbus Blvd, Philadelphia, PA 19106.

4. Defendant, Entertainment Cruises, Inc., is a corporation or similar entity, with a principal place of business at 123 Chestnut Street, Philadelphia, PA 19106.

5. At all times material to Plaintiffs' cause of action, Defendants were the owners, operators, possessors, and maintainers of a certain "Spirit of Philadelphia," Yacht docked at 401 S. Columbus Blvd, in Philadelphia, PA 19106.

6. All the acts alleged to have been done or not to have been done by the Defendants were done or not done by the Defendants, their agents, servants, workmen and/or employees acting within the course and scope of their employment and authority for and on behalf of said Defendants.

7. On or about August 10, 2019, at approximately 3:45 pm, Plaintiff, Melinda LeSage, was a business invitee on the Spirit of Philadelphia Yacht and, while exercising due care and caution for her own safety, was caused to trip, stumble, and fall by reason of the presence of a three (3) inch raised threshold above a landing, thereby causing a dangerous, defective and hazardous condition.

8. The dangerous condition of the raised threshold created a reasonably foreseeable risk that guests such as Plaintiff would trip, stumble, and fall and incur injury.

9. As a result of the aforesaid, Plaintiff sustained serious, painful, and permanent injuries as more particularly described herein.

**COUNT I-NEGLIGENCE**

**PLAINTIFF, MELINDA LESAGE V. ALL DEFENDANTS**

10. Plaintiffs hereby incorporates the above referenced paragraphs, as fully as though the same were set forth here at length.

11. The negligence and carelessness of the Defendants consisted of the following:

(a) failure to use ordinary care and diligence to warn patrons of the raised threshold and to keep the doorway in a condition reasonably safe for its intended uses and free from all defects and conditions which would render it dangerous and unsafe for Plaintiff, or present an unreasonable risk of harm to her in her lawful use of the same;

(b) failure to place warning and caution signs in a reasonable place, in which Plaintiff would have had sufficient time to detect and identify the presence of the raised threshold hazard.

(c) failure to place warning and caution signs at a reasonable distance, in which Plaintiff would have had sufficient time to associate the warning with the hazard.

(d) failure to place warning and caution signs in a reasonable place, in which Plaintiff would have sufficient time to respond to the warning of the raised threshold.

(e) failure to have specific warnings and cautions signs related to the raised threshold.

(f) failure to warn plaintiff of the dangerous and defective condition of the raised threshold then and there existing on the Spirit of Philadelphia Yacht.

(g) allowing the raised threshold to remain in a dangerous and defective condition.



12. By failing to warn or caution of the raised threshold on the Spirit of Philadelphia on August 10, 2019, Defendants created a dangerous and/or hazardous condition, of which Defendants were aware, should have been aware, or could have been aware through the exercise of ordinary care, and breached their duty to public invitees and Plaintiff herein.

13. Plaintiff's fall and resultant injuries were caused by the aforesaid acts of negligence on the part of Defendants or their agents, servants and/or employees, who failed to utilize reasonable care to warn of said reasonably foreseeable hazard or dangerous condition.

14. As a result of the aforesaid, Plaintiff sustained injuries to her neck, back, legs and head, including but not limited to: a fracture to her right distal femur requiring surgical repair and multilevel degenerative thoracic and lumbar sprain spondylosis.

15. As a result of the incident aforesaid, Plaintiff has undergone great physical pain and mental anguish and she may continue to endure the same for an indefinite time in the future to her great detriment and loss.

16. As a further result of the accident aforesaid, Plaintiff has been compelled to expend large sums of money for medicine and medical care in an effort to effect a cure of her injuries, and she may be compelled to continue to expend such sums for the same purposes for an indefinite time in the future, to her great detriment and loss.

17. As a result of the accident aforesaid, Plaintiff has been unable to attend to her usual and daily duties and occupation and she will be unable to attend to the same for an indefinite time in the future, to her great detriment and loss.

18. As a further result of the aforesaid, Plaintiff has suffered a loss and depreciation of her earnings and earning power, and she may continue to suffer the same for an indefinite time in the future, to her great detriment and loss.

**WHEREFORE**, Plaintiff demands judgment against the Defendants, for in an amount in excess of the jurisdictional limits, together with interest and costs.

**COUNT II – LOSS OF CONSORTIUM**

**PLAINTIFF, HERBERT J. LESAGE, JR. vs. ALL DEFENDANTS**

19. Plaintiff, Herbert J. LeSage, Jr. incorporates by reference the averments of the above paragraphs as fully as though the same were set forth herein at length.

20. Plaintiff, Herbert J. LeSage, Jr. is the lawful husband of Plaintiff, Melinda LeSage.

21. As a result of the accident as set forth above, caused solely by the negligence, carelessness, and recklessness of Defendants, Plaintiff, Herbert J. LeSage, Jr. was caused to suffer the loss of guidance, support, advice, household services, consortium, personal services, companionship, and assistance of his wife, Melinda LeSage.

22. As a result of the incident as set forth above, caused solely by the negligence, carelessness, and recklessness of Defendants, Plaintiff, Herbert J. LeSage, Jr. will be caused to suffer the loss of guidance, support, advice, household services, consortium, personal services, companionship, and assistance of his wife, Melinda LeSage, in the future.

**WHEREFORE**, Plaintiff demands judgment against the Defendants, for compensatory damages in an amount in excess of the jurisdictional limits, together with interest and costs.



Respectfully Submitted

STARK & STARK, P.C.

Joseph A. Cullen, Jr.

Joseph A. Cullen, Jr., Esquire

Dylan Cochran, Esquire

DATED: May 10, 2022

*Attorneys for Plaintiffs*

VERIFICATION

We, Melinda LeSage and Herbert J. LeSage, Jr hereby verify that the facts set forth in the foregoing Complaint are true and correct to the best of my information, knowledge and belief, and that false statements herein are made subject to the penalties of 18 Pa. C.S. Sec. 4904, relating to unsworn falsification to authorities.

Melinda R. LeSage  
Melinda LeSage

Herbert J. LeSage, Jr  
Herbert J. LeSage, Jr

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***EXHIBIT "B"***



**AFFIDAVIT OF COLLEEN LA HA**

I, Colleen La Ha, do hereby swear and aver as follows:

At all times pertinent hereto:

1. I, Colleen La Ha, am an adult individual and authorized representative on behalf of Defendants, City Cruises Philadelphia, Spirit of Philadelphia and Entertainment Cruises, Inc.
2. Defendant, Entertainment Cruises, Inc. is predecessor corporation of Hornblower Cruises and Events, Inc., which replaced Entertainment Cruises, Inc. via a name change in 2020. Hornblower Cruises and Events, Inc. is a domestic corporation organized pursuant to the laws of the state of Delaware. Its principal place of business is located at 455 N Cityfront Drive, Suite 2600, Chicago, IL 60611.
3. Defendant, City Cruises, is a trade name of Hornblower Cruises and Events, LLC, which replaced Spirit Cruises, LLC via a name change in 2020. Hornblower Cruises and Events, LLC is domestic limited liability company organized pursuant to the laws of the state of Delaware. Its principal place of business is located at 455 N Cityfront Drive, Suite 2600, Chicago, IL 60611.
4. Defendant *Spirit of Philadelphia* is a marine vessel owned by Hornblower Cruises and Events, LLC.
5. Hornblower Cruises and Events, Inc. is the sole member of Hornblower Cruises and Events, LLC.
6. Hornblower Cruises and Events, LLC and Hornblower Cruises and Events, Inc., are organized under Hornblower Group, Inc., which is a domestic corporation organized pursuant to the laws of the state of California. Its principal place of business is Pier 3, The Embarcadero, San Francisco, CA 94111.

7. Hornblower Cruises and Events, LLC, Hornblower Cruises and Events, Inc., and Hornblower Group, Inc. have never been organized pursuant to the laws of the state of Pennsylvania, and their respective principal places of business have never been located in the state of Pennsylvania.


8. I declare under penalty of perjury that the foregoing is true and correct.

Date: June 24, 2022

By:

  
COLLEEN LA HA

Sworn to and Subscribed  
before me this 24<sup>th</sup> day  
of June, 2022.

  
Notary Public

